UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,689	01/25/2007	Richard Percy	2105-00021	7022

26753   7590   11/16/2009
ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

EXAMINER
BROMELL, ALEXANDRIA Y

ART UNIT	PAPER NUMBER
2167	

MAIL DATE	DELIVERY MODE
11/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/547,689	PERCY, RICHARD
	Examiner	Art Unit	
	ALEXANDRIA Y. BROMELL	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 July 2009*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *92 - 93 and 95 - 107* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *92 - 93 and 95 - 107* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *02 September 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claims 92 – 93 and 95 – 107 are pending in this Office Action.

Response to Arguments

Applicant's arguments filed July 27, 2009 have been fully considered but they are

not persuasive. Applicant argues that:

A. The "teaching is quite different from that of the present application in that claim

92 speaks to storing "codes and information and links associated with said codes in a

database,"" (Remarks, page 7).

B. The "teaching is drastically different from the claim 92 limitations as this

language does not teach receiving a code from a communication device, recognizing

the code as a request for information or parsing the code," (Remarks, page 7).

C. "There is a fundamental difference between relationships within the database,

and links from the database to related information that exists outside the database,"

(Remarks, page 8).

D. "As discussed above, the Spackman reference does not teach the limitations

directed to storing codes and information and links associated with said codes in a

database, receiving a code, recognizing the code as a request for information and

parsing the code, nor retrieving information from one or more databases or servers by

using the information and links associated with the code," (Remarks, page 8).

E. The dependent claims are allowable (Remarks, pages 8 and 9).

Examiner respectfully disagrees all of the allegations as argued. Examiner, in her previous office action, gave a detailed explanation of the claimed limitations and pointed out exact locations in the cited prior art.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1].

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

Examiner addresses applicant's arguments as follows:

A. Examiner points out that claim 92 has been amended and no longer reads exactly as Applicant has argued. The newly amended limitation in claim 92 reads, "a database, wherein the database stores codes, information and links associated with said codes."

Spackman teaches a database stored in a memory device:

"FIG. 2 illustrates the overall structure of the apparatus of the present invention. The user interface includes the above-described input and output devices. A record database is stored in the memory device. Access to the record database for input of encoded records is possible through a record keeping interface," (column 6, lines 1 - 6, see Fig. 2), where codes and other information are stored in the database:

"The resulting set of electronic records comprises a database of records. The alphanumeric codes used in the patient/medical database are the same as the alphanumeric codes of the corresponding concepts of the terminology knowledge base. The expressions used in the database of patient records use the same description language as the expressions used to define concepts in the terminology knowledge base," (column 8, lines 59 - 65).

B. Examiner would like to point out that this claim limitation as argued is newly added. However, Spackman teaches, "a network receiver, wherein the network receiver receives a code from a user's communication device," (i.e. a query manager receives queries and translates them into a format which can be processed by the system, column 3, lines 66 – 67). Therefore, the network receiver, or query manager receives a query in some form of code, which is translated into another format so it may be processed.

C. Examiner respectfully points out that Applicant has argued a limitation that was canceled in the newly amended claims.

D. As discussed above, Spackman teaches all the argued limitations. Specifically, Spackman teaches:

storing codes and information and links associated with said codes in a database, (i.e. "The resulting set of electronic records comprises a database of records. The alphanumeric codes used in the patient/medical database are the same as the alphanumeric codes of the corresponding concepts of the terminology knowledge base. The expressions used in the database of patient records use the same description

language as the expressions used to define concepts in the terminology knowledge

base," column 8, lines 59 – 65, where links are also stored, column 14, lines 28 - 35),

receiving a code (i.e. a query manager receives queries and translates them into

a format which can be processed by the system, column 3, lines 66 – 67);

recognizing the code as a request for information and parsing the code (i.e.

query is submitted to identify which concepts in the records are similar to terms in the

terminology knowledge base, column 10, lines 53 - 63); and

retrieving information from one or more databases or servers by using the

information and links associated with the code (i.e. information can be retrieved based

on the hierarchical links of concepts, column 14, lines 28 - 34).

E. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they

amount to a general allegation that the claims define a patentable invention without

specifically pointing out how the language of the claims patentably distinguishes them

from the references.

For the above reasons, Examiner relies on her previous rejection, therefore, this

rejection is made Final.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 92 – 93 and 95 - 107 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 92 – 93 and 95 - 107 are rejected under 35 USC 101 for being "software per se".

The claimed invention as in claims 92 – 93 and 95 - 107 is addressed to "a host system for providing information stored on electronic *or other form*" that can be interpreted as referring to lines of programming within a computer system, rather than referring to the system as a physical object. The claimed invention is directed to, "a database," "a network receiver," "a set of executable software code," "information and links," and "a transmitter," therefore, the claims are deemed to read as pure software systems, with no clear limitations that read on some sort of hardware.

In view of Applicant's disclosure, specification paragraph [0122], the present invention may be embodied in software or by a human operator. Accordingly, the claim may become nothing more than a set of software instructions which are "software per se".

"Software per se" is non-statutory under 35 USC 101 because it is merely a set instruction without any defined tangible output or tangible result being produced. The requirement for tangible result under 35 USC 101 is defined in *State Street Bank &*

Trust Co. v. Signature Financial Group Inc., 149 F.3d 1368, 47USPQ2d 1596 (Fed. Cir.

1998).

According to MPEP 2106:

The claims lack the necessary physical articles or objects to constitute a machine

or a manufacture within the meaning of 35 USC 101. They are clearly not a series of

steps or acts to be a process nor are they a combination of chemical compounds to be

a composition of matter. As such, they fail to fall within a statutory category. They are, at

best, functional descriptive material per se.

Descriptive material can be characterized as either "functional descriptive

material" or "nonfunctional descriptive material." Both types of "descriptive material" are

nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d

at 1759. When functional descriptive material is recorded on some computer-readable

medium, it becomes structurally and functionally interrelated to the medium and will be

statutory in most cases since use of technology permits the function of the descriptive

material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d

1031, 1035 (Fed. Cir. 1994).

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on

a computer-readable medium, in a computer, or on an electromagnetic carrier signal,

does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8 (noting that

the claims for an algorithm in Benson were unpatentable as abstract ideas because

"[t]he sole practical application of the algorithm was in connection with the programming

of a general purpose computer").

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 92, 96, 99, 103 – 104, and 107 are rejected under 35 U.S.C. 102(e) as

being anticipated by Kent A. Spackman et al. (U.S. Patent 6,438,533), hereinafter,

"Spackman."

With respect to claim 92, Spackman teaches:

a database (i.e. FIG. 2 illustrates the overall structure of the apparatus of the

present invention. The user interface includes the above-described input and output

devices. A record database is stored in the memory device. Access to the record

database for input of encoded records is possible through a record keeping interface,

column 6, lines 1 - 6, see Fig. 2), wherein the database stores codes, and information

links associated with said codes, (i.e. The resulting set of electronic records comprises

a database of records. The alphanumeric codes used in the patient/medical database

are the same as the alphanumeric codes of the corresponding concepts of the

terminology knowledge base. The expressions used in the database of patient records

use the same description language as the expressions used to define concepts in the

terminology knowledge base, column 8, lines 59 - 65), wherein each code comprises a

plurality of alpha - numeric sub - codes in a hierarchical structure (i.e. alphanumeric

codes are used with hierarchical data structures, column 2, lines 28 - 37), and wherein

the codes are used for classifying information according to subject terms by encoding

subject terms with codes (i.e. medical terms and codes are classified, column 1, lines

57 – 64, terms are encoded into one group, column 2, lines 39 - 51);

a network receiver, wherein the network receiver receives a code from a user's

communication device (i.e. a query manager receives queries and translates them into

a format which can be processed by the system, column 3, lines 66 – 67);

a set of executable software code stored on the host system such that when the

set of executable software code is executed, the code received by the user is

recognized as a request for information, is parsed, and information is retrieved from one

or more databases or servers by using information and links associated with the code

received by the user (i.e. query is submitted to identify which concepts in the records

are similar to terms in the terminology knowledge base, column 10, lines 53 - 63); and

information and links (i.e. information can be retrieved based on the hierarchical

links of concepts, column 14, lines 28 - 34);

a transmitter, wherein the retrieved information is transmitted to the user's

communications device over a network (i.e. retrieved information, or output, is

transmitted to a device, column 5, lines 52 - 67).

With respect to claim 96, Spackman teaches that wherein all of said sub-codes have the same data structure (i.e. the same codes are used for similar data structures for strict hierarchies, column 2, lines 28 - 38).

With respect to claim 99, Spackman teaches wherein the sub-codes and/or codes are used to navigate to desired or associated links or information (i.e. information can be retrieved based on the hierarchical links of concepts, column 14, lines 28 - 34).

With respect to claim 103, Spackman teaches wherein one or more of said codes are distributed together with information and/or products (i.e. codes are available in the knowledgebase to link concepts, column 7, lines 1 - 9).

With respect to claim 104, Spackman teaches wherein an indexing function is provided at each level of said hierarchical structure (i.e. indexing is done to receive and store record information, column 2, lines 3).

With respect to claim 107, Spackman teaches wherein codes complemented by subject-terms are used to search for, access or receive information (i.e. query is submitted to identify which concepts in the records are similar to terms in the terminology knowledge base, column 10, lines 53 - 63.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 93, 95, 97 – 98, 100 – 102, and 105 – 106 are rejected under 35 U.S.C.

103(a) as being unpatentable over Kent A. Spackman et al. (U.S. Patent 6,438,533),

hereinafter, "Spackman," in view of ACM ("The ACM Computing Classification System

(1998)", December 1998, pages 1-30).

With respect to claim 93, Spackman does not explicitly disclose the two digit

codes in a hierarchical level as claimed. However, ACM teaches wherein a code

comprising n sub-codes provide for n levels in the hierarchical structure (i.e. bullet A:

General Literature, has 4 levels of sub-codes in the hierarchical structure, subcode 0, 1,

2, and m, page 1).

Spackman and ACM are from the same field of endeavor of allowing data to be

classified. At the time of the invention, it would have been obvious to one of ordinary

skill in the art to modify the teachings of Spackman with the teachings of ACM in order

to show a detailed view of how the documents are classified (ACM, page 1). The

motivation for doing so would have been to show the classification codes and sub-

codes (ACM, page 1). Therefore, it would have been obvious to combine ACM with Spackman to obtain the invention as specified in the instant claims.

With respect to claim 95, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein said sub-codes comprise a two digit code (i.e. sub-codes may be made up of two digits, see I.2.10, with 10 being the sub-code, page 22).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 97, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein the codes include a sequence of one or more of said numeric or alpha-numeric sub-codes (i.e. codes include at least one alpha-numeric or numeric sub-code, A.2 or A.m, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 98, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein the codes

include a sequence of two digit sub-codes (i.e. sub-codes may be made up of two digits, see I.2.10, with 10 being the sub-code, page 22).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 100, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein each of the sub-codes at each level of the hierarchical structure is associated with a certain subject-term (i.e. nodes at each level in the hierarchy are associated with a certain subject, the subject for B.1.1 is control Design Styles, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 101, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein the codes consist solely of a combination of said sub-codes (i.e. A. General Literature, is a combination of alpha and numeric sub codes to produce A.0, A.1, A.2, and A.m, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in

the art to modify the teachings of Spackman with the teachings of ACM in order to show

a detailed view of how the documents are classified (ACM, page 1). The motivation for

doing so would have been to show the classification codes and sub-codes (ACM, page

1).

With respect to claim 102, Spackman does not explicitly disclose the two digit

codes in a hierarchical level as claimed. However, ACM teaches wherein information

assigned a particular code relates either: i) to the subject-term associated with said

particular code if the code includes a single sub-code (i.e. A.1 includes only one single

sub-category, page 1), or ii) to all subject-terms associated with all sub-codes of said

particular code if the code includes more than one sub-code (i.e. B.1.4 also includes

D.2.2, D.2.4, D.3.2, and D.3.4, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in

the art to modify the teachings of Spackman with the teachings of ACM in order to show

a detailed view of how the documents are classified (ACM, page 1). The motivation for

doing so would have been to show the classification codes and sub-codes (ACM, page

1).

With respect to claim 105, Spackman does not explicitly disclose the two digit

codes in a hierarchical level as claimed. However, ACM teaches wherein at each level

of said hierarchical structure data related to subject-terms associated with the sub-

codes are available upon entering a particular sub-cod (i.e. when you access B.1.1,

Control Design Styles, you also have access to Hardwired Control, Microprogrammed

Logic arrays, and Writable Control Store, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in

the art to modify the teachings of Spackman with the teachings of ACM in order to show

a detailed view of how the documents are classified (ACM, page 1). The motivation for

doing so would have been to show the classification codes and sub-codes (ACM, page

1).

With respect to claim 106, Spackman does not explicitly disclose the two digit

codes in a hierarchical level as claimed. However, ACM teaches wherein one or more of

the sub-codes are converted into the associated subject-terms (i.e. sub codes

correspond with the section titles or categories, for example, everyone would know that

B.1.5 deals with Microde Applications, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in

the art to modify the teachings of Spackman with the teachings of ACM in order to show

a detailed view of how the documents are classified (ACM, page 1).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ALEXANDRIA Y. BROMELL whose telephone number

is (571)270-3034. The examiner can normally be reached on M - R 9 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexandria Y Bromell/   /Shahid Al Alam/
Examiner, Art Unit 2167   Primary Examiner, Art Unit 2162
October 28, 2009

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167